

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ANA I. GARCIA,

Plaintiff,

15-cv-8384 (PKC) (RLE)

-against-

COMMISSIONER OF SOCIAL SECURITY,

Defendant.
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ORDER ADOPTING REPORT
AND RECOMMENDATION

CASTEL, Senior District Judge:

On October 23, 2015, Ana Garcia, proceeding *pro se*, filed this action seeking review of the final decision of the Commissioner of Social Security (the “Commissioner”), which denied Garcia supplemental security income and disability insurance benefits. (Dkt. 2). The Commissioner moved for judgment on the pleadings pursuant to Rule 12(c), Fed. R. Civ. P., on February 18, 2016. (Dkt. 12). On April 7, 2016, Garcia filed her opposition to that motion. (Dkt. 15).

This Court referred the motion to the Hon. Ronald L. Ellis, U.S.M.J., to hear and report. (Dkt. 16). On March 31, 2017, Magistrate Judge Ellis issued a Report and Recommendation (the “R&R”) recommending that this Court deny the Commissioner’s motion and remand the case pursuant to 42 U.S.C. § 405(g) for further proceedings. (Dkt. 18).

In reviewing an R&R, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). The R&R advised the parties that they had fourteen days from service of the R&R to file any objections with the undersigned, citing Rule 72, Fed. R. Civ. P., and warned that failure to timely file such objections would result in a waiver of any right to object. (R&R at 25). Months have

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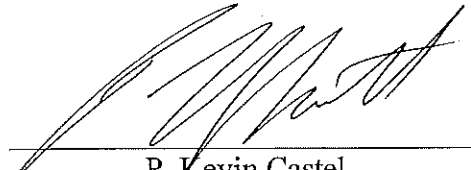
passed since the R&R was filed, and no objections or requests for extensions have been submitted to the Court. The parties received clear notice of the consequences of the failure to object and waived the right to object to the R&R or obtain further judicial review of the magistrate's decision. See Frank v. Johnson, 968 F.2d 298, 300 (2d Cir. 1992); Mario v. P & C Food Mkts., Inc., 313 F.3d 758, 766 (2d Cir. 2002); see also Caidor v. Onondaga Cty., 517 F.3d 601, 604 (2d Cir. 2008).

When clear notice of the consequences of a failure to object has been provided, the Court may adopt an unobjected-to report and recommendation without *de novo* review. See Thomas v. Arn, 474 U.S. 140, 150 (1985) ("It does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings."). In such circumstances, "a district court need only satisfy itself that there is no clear error on the face of the record." Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985). Guided by Magistrate Judge Ellis's thorough and well-reasoned R&R, I find no clear error. Therefore, I adopt the Report and Recommendation in its entirety.

CONCLUSION

The Commissioner's motion for judgment on the pleadings (Dkt. 12) is DENIED. This case is REMANDED pursuant to 42 U.S.C. § 405(g) for further proceedings consistent with the R&R.

SO ORDERED.



P. Kevin Castel
United States District Judge

Dated: New York, New York
November 3, 2017